

Message Text

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FM AMEMBASSY MBABANE
TO SECSTATE WASHDC IMMEDIATE 5676
INFO AMEMBASSY GABORONE IMMEDIATE

LIMITED OFFICIAL USE SECTION 1 OF 3 MBABANE 3169

GABORONE FOR AMBASSADOR

E.O. 11652: N/A
TAGS: SHUM, WZ
SUBJECT: 1978 HUMAN RIGHTS REPORT FOR SWAZILAND

REF: STATE 212861

HEREWITH EMBASSY'S DRAFT OF HUMAN RIGHTS REPORT FOR SWAZILAND
REQUESTED REFTEL. TO AVOID DELAY AND TIME-CONSUMING RETRANSMISSION,
THIS DRAFT IS BEING SENT SIMULTANEOUSLY TO DEPARTMENT AND
GABORONE. DEPARTMENT MAY WISH DEFER ACTION ON DRAFT PENDING
RECEIPT OF AMBASSADOR'S CABLE COMMENT FROM GABORONE.

A. HUMAN RIGHTS REPORT ON SWAZILAND

SWAZILAND IS GOVERNED BY A HEREDITARY MONARCH. HIS POWERS ARE
NOT CIRCUMSCRIBED BY WRITTEN LEGAL GUARANTEES OF HUMAN RIGHTS;
HOWEVER, HIS AUTHORITY IS LIMITED BY A COMPLEX SYSTEM OF
TRADITIONAL RIGHTS AND RESPONSIBILITIES.

IN A PROCLAMATION ON APRIL 12, 1973, KING SOBUZA II DECLARED
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THAT HE HAD ASSUMED SUPREME POWER IN THE KINGDOM OF SWAZILAND
AND THAT ALL LEGISLATIVE, EXECUTIVE, AND JUDICIAL POWER WAS
THEREUPON VESTED IN HIM AND WOULD BE EXERCISED IN COLLABORATION
WITH A COUNCIL CONSTITUTED BY HIS CABINET. IN THAT PROCLAMATION
HE DECREED THE REPEAL OF THE WESTERN-STYLE CONSTITUTION THAT
HAD ENTERED INTO FORCE ON THE COUNTRY'S INDEPENDENCE IN 1968.
ALMOST IMMEDIATELY AFTER THE REPEAL OF THE CONSTITUTION, THE KING

APPOINTED THE ROYAL SWAZILAND CONSTITUTIONAL COMMISSION INTER ALIA "TO INQUIRE INTO THE FUNDAMENTAL PRINCIPLES UPON WHICH THE KINGDOM'S CONSTITUTION SHOULD BE BASED, HAVING REGARD TO THE HISTORY, THE CULTURE, THE WAY OF LIFE OF THE PEOPLE OF SWAZILAND AND THE NEED TO HARMONISE THESE WITH THE MODERN PRINCIPLES OF CONSTITUTIONAL AND INTERNATIONAL LAW." THE RECOMMENDATIONS OF THIS COMMISSION WERE SUBMITTED TO THE KING IN JUNE 1975 AND HAVE SINCE BEEN STUDIED BY A SPECIAL COMMITTEE. THERE HAS BEEN NO PUBLIC ANNOUNCEMENT CONCERNING THE SUBSTANCE OF THE RECOMMENDATIONS OR THE DATE ON WHICH THE NEW CONSTITUTION WOULD ENTER INTO FORCE. DESPITE THE LACK OF WRITTEN LEGAL SAFEGUARDS, THERE HAS BEEN NO SIGNIFICANT DEGRADATION OF RESPECT FOR HUMAN RIGHTS TO DATE.

B. BODY OF REPORT

1. RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

A. TORTURE

THERE HAVE BEEN NO ALLEGATIONS OF TORTURE IN SWAZILAND.

B. CRUEL, INHUMAN, OR DEGRADING TREATMENT OF PUNISHMENT

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THERE IS NO EVIDENCE THAT PERSONS IN SWAZILAND, INCLUDING POLITICAL DETAINEES, HAVE BEEN SUBJECTED TO CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.

C. ARBITRARY ARREST OR IMPRISONMENT

THE DETERNTION ORDER, 1978, AUTHORIZES THE PRIME MINISTER, WITH THE CONSENT OF THE KING, TO ISSUE A WRITTEN ORDER FOR THE DETENTION OF ANY PERSON FOR 60 DAYS. WITH THE KING'S CONSENT, HE MAY EXTEND THE PERIOD FOR FURTHER PERIODS OF 60 DAYS. NO DETENTION ORDER IS SUBJECT TO ANY APPEAL TO ANY COURT. THE DETENTION ORDER, 1978, PROVIDES THAT THE FACT OF THE DETENTION OF ANY PERSON UNDER THAT ORDER SHALL BE PUBLISHED BY THE ATTORNEY GENERAL IN THE GAZETTE. WHILE PERSONS ARE KNOWN TO HAVE BEEN DETAINED UNDER THE DETENTION ORDER, 1978, THE FACT OF THOSE DETENTIONS HAS NOT BEEN PUBLISHED IN THE GAZETTE AS PRESCRIBED OR MADE PUBLIC IN ANY OTHER OFFICIAL MANNER.

D. DENIAL OF FAIR PUBLIC TRAIL

THE JUDICIARY IN SWAZILAND IS INDEPENDENT AND RESPECTED. A DUAL SYSTEM OF COURTS WITH RIGHTS OF APPEAL ASSURES RECOURSE TO BOTH MODERN ROMAN-DUTCH LAW AND TRADITIONAL SWAZI LAW TO FIT INDIVIDUAL CASES. EXCEPT FOR POLITICAL DETAINEES, PERSONS CLAIMING VIOLATIONS OF THEIR HUMAN RIGHTS RECEIVE A FAIR HEARING OR PUBLIC TRAIL.

E. INVASION OF THE HOME

ALLEGATIONS OF INVASION OF THE HOME ARE INFREQUENT IN SWAZILAND. THE MOST PUBLICIZED INVASIONS IN 1978 OCCURRED IN CONNECTION WITH THE GOVERNMENT'S EARCH LIMITED OFFICIAL USE

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FOR DR. AMBROSE ZWANE, A FORMER OPPOSITION LEADER WHO FLED FROM DETENTION IN AUGUST. ACCORDING TO INTERNATIONAL PRESS REPORTS, THE SEARCH INVOLVED POLICE ENTRY INTO THE HOMES OF DR. ZWANE'S RELATIVES AND THE RESIDENCE OF THE CATHOLIC BISHOP OF SWAZILAND.

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TO SECSTATE WASHDC IMMEDIATE 5677

INFO AMEMBASSY GABORONE IMMEDIATE

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GABORONE FOR AMBASSADOR

2. GOVERNMENTAL POLICIES RELATING TO THE FULFILLMENT
OF SUCH VITAL NEEDS AS FOOD, SHELTER, HEALTH CARE,
AND EDUCATION

ACCORDING TO PRELIMINARY INDICATIONS, SWAZILAND'S NEW
FIVE-YEAR PLAN PROVIDES FOR CONTINUATION OF AN INDUSTRIAL-
LEAD STRATEGY (RATHER THAN A BASIC HUMAN NEEDS STRATEGY)
WHICH WOULD DELAY PROGRESS IN FULFILLING THE BASIC NEEDS
OF THE 70 PERCENT OF THE POPULATION THAT IS IN THE
RURAL SUBSISTENCE SECTOR. ALTHOUGH THE AGGREGATED BUDGET FUNDS
ALLOCATED THIS YEAR TO MINISTRIES CONCERNED
WITH BASIC HUMAN NEEDS INCREASED 31 PERCENT OVER LAST YEAR,
THOSE MINISTRIES' SHARE OF THE TOTAL BUDGETED FUNDS
DECREASED FROM 38 PERCENT LAST YEAR TO 26 PERCENT THIS YEAR.

FOOD PRODUCTION BY THE POPULATION LIVING ON SWAZI NATION LAND
HAS CONTINUED TO KEEP PACE WITH POPULATION GROWTH. BECAUSE
THIS PRODUCTION IS CONSUMED BY THE PRODUCERS, HOWEVER,
COUNTRY'S FOOD IMPORT BILL CONTINUED TO RISE THIS YEAR, A
SITUATION WHICH THE GOVERNMENT IS TRYING TO REVERSE THROUGH THE
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MULTI-DONOR INTEGRATED RURAL DEVELOPMENT PROGRAM BEING
ASSISTED BY THE U.S. GOVERNMENT.

THE PROVISION OF ADEQUATE LOW-COST HOUSING IS
BECOMING A SIGNIFICANT URBAN PROBLEM. SQUATTER
SETTLEMENTS ARE INCREASING IN SIZE OWING IN PART
TO THE ABSENCE OF GOVERNMENT INSTITUTIONS AND PROGRAMS DESIGNED
TO MEET THE BASIC SHELTER NEEDS OF THE URBAN POOR.

DESPITE THEIR RELATIVELY SMALL SHARE OF THE BUDGET, HEALTH
SERVICES HAVE EXPANDED DRAMATICALLY IN THE TEN YEARS OF
SWAZILAND'S INDEPENDENCE. HOWEVER, 40 PERCENT OF THE POPULA-
TION STILL LIVES MORE THAN FIVE MILES FROM A CLINIC, AND 90
PERCENT OF THE RURAL POPULATION DOES NOT HAVE READY ACCESS TO
CLEAN WATER. GOVERNMENT PROGRAMS TO ADDRESS THESE NEEDS ARE
HAMPERED BY THE LACK OF TRAINED PEOPLE.

THE GOVERNMENT IS ACTIVELY PURSUING A GOAL OF UNIVERSAL PRIMARY
EDUCATION BY 1985. 75 PERCENT OF THE UNIVERSAL PRIMARY
EDUCATION BY 1985. 75 PERCENT OF THE PRIMARY-AGE CHILDREN
ARE ALREADY ENROLLED, DIVIDED ALMOST EQUALLY BETWEEN MALES AND
FEMALES.

3. RESPECT FOR CIVIL AND POLITICAL LIBERTIES, INCLUDING:

A. FREEDOM OF THOUGHT, SPEECH, PRESS, RELIGION,
AND ASSEMBLY

THERE HAVE BEEN NO ALLEGATIONS OF INFRINGEMENT OF SWAZI CITIZENS' FREEDOM OF THOUGHT AND RELIGION. FREEDOM OF SPEECH, INCLUDING CRITICAL COMMENT, IS PERMITTED; IN THE GOVERNMENT'S WORDS, "THE ONLY INHIBITION AGAINST SUCH CRITICISM IS THAT IT LIMITED OFFICIAL USE

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SHOULD BE DONE WITH COURTESY AND NOT BE INSULTING OR SUBVERSIVE IN INTENTION." NEITHER THE LOCAL NOR THE INTERNATIONAL PRESS, WHICH CIRCULATES FREELY IN SWAZILAND, IS SUBJECT TO GOVERNMENTAL CONTROL. AS FOR FREEDOM OF ASSEMBLY, THE KING'S PROCLAMATION OF APRIL 12, 1973, PROVIDES THAT NO MEETINGS OF A POLITICAL NATURE AND NO PROCESSIONS OR DEMONSTRATIONS SHALL BE HELD OR TAKE PLACE IN ANY PUBLIC PLACE EXCEPT WITH THE PRIOR WRITTEN CONSENT OF THE COMMISSIONER OF POLICE. EMPLOYEES ARE ALLOWED TO ORGANIZE; HOWEVER, ONLY A RELATIVELY SMALL NUMBER BELONG TO THE COUNTRY'S FEW ACTIVE UNIONS. WOMEN HAVE ACCESS TO EDUCATION AT ALL LEVELS AND OCCUPY SOME MID-LEVEL POSTS IN GOVERNMENT SERVICE IN ADDITION TO PROVIDING THE VAST MAJORITY OF THE COUNTRY'S TEACHERS AND NURSES. SWAZILAND GOVERNMENT POLICY SUPPORTS A NON-RACIAL SOCIETY IN THE KINGDOM.

B. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, AND EMIGRATION

THERE ARE NO RESTRICTIONS ON MOVEMENT WITHIN SWAZILAND. THERE ARE NO LAWS PROHIBITING FOREIGN TRAVEL OR EMIGRATION; HOWEVER, SWAZI CITIZENS HAVE NO GUARANTEED RIGHT TO A PASSPORT OR TRAVEL DOCUMENT, WHICH IS REQUIRED FOR FOREIGN TRAVEL OR EMIGRATION.

C. FREEDOM TO PARTICIPATE IN THE POLITICAL PROCESS

NO DATE HAS BEEN ANNOUNCED FOR THE ELECTION OF MEMBERS OF A NATIONAL LEGISLATIVE BODY. IN THE INTERIM, AND IN THE ABSENCE OF POLITICAL PARTIES, WHICH WERE BANNED IN THE KING'S PROCLAMATION OF APRIL 12, 1973, CITIZENS' VIEWS ARE CONVEYED TO HIGHER AUTHORITIES BY SWAZIS INDIVIDUALLY OR THROUGH THE COMMUNAL COUNCILS (TINKHUNDLA). THE TINKHUNDLA SYSTEM APPEARS TO ENJOY BROAD SUPPORT IN THE TRADITION- LIMITED OFFICIAL USE

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OREINTED SECTOR OF THE SWAZI POPULATION.

4. GOVERNMENTAL ATTITUDE AND RECORD REGARDING INTERNATIONAL
AND NON-GOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS
OF HUMAN RIGHTS

THE GOVERNMENT OF SWAZILAND HAS NOT ATTEMPTED TO
RESTRICT INDEPENDENT INVESTIGATION OF THE HUMAN
RIGHTS SITUATION IN ITS COUNTRY. NO SUCH INVESTIGATION
WAS UNDERTAKEN IN 1978.

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TO SECSTATE WASHDC IMMEDIATE 5678

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GABORONE FOR AMBASSADOR

C. ANALYSIS AND RECOMMENDATIONS (FOR AF'S USE)

1. OVER THE NEXT 3-12 MONTHS WE SHOULD DO THE FOLLOWING:

(A) ENCOURAGE RELATIVELY GREATER GOS BUDGETARY SUPPORT
FOR RURAL DEVELOPMENT AND OTHER BHN-RELATED ACTIVITIES.
REDUCING THE GAP BETWEEN SWAZILAND'S HAVES AND HAVE-NOTS IS
THE MOST IMPORTANT STEP THAT CAN BE TAKEN TO PRESERVE THE
COUNTRY'S STABILITY FOR THE LONG-TERM. THIS ENCOURAGEMENT
CAN TAKE PLACE THROUGH ONE OR BOTH OF THE FOLLOWING MEANS:
FIRST, QUIET DIPLOMACY (USG DISCUSSIONS WITH GOS OFFICIALS
HERE AND DURING THEIR WASHINGTON VISITS, AND USG DISCUSSIONS
WITH REPS OF OTHER DONOR COUNTRIES). SECONDLY, RESPONDING
AT A MOST DELIBERATE PACE TO REQUESTS FOR INCREASED ECONOMIC
ASSISTANCE UNTIL THE GOS DEMONSTRATES GREATER SENSITIVITY
ON THE EQUITY ISSUE.

(B) INCREASE JUSTICE MINISTRY OFFICIALS' EXPOSURE TO THE AMERICAN HUMAN RIGHTS SITUATION. THE MORE INSULAR AND TRADITIONALIST-ORIENTED GOS OFFICIALS FEAR THAT TO INCREASE LIMITED OFFICIAL USE

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CIVIL LIBERTIES HERE WOULD BE TO INVITE A BREAKDOWN OF SOCIETY, IF NOT ENCOURAGE COMMUNISM ITSELF. EXPOSING JUSTICE MINISTRY OFFICIALS TO A VARIETY OF AMERICAN EXPERIENCE ON THE HUMAN RIGHTS FRONT SHOULD HELP PERSUADE THEM THAT SWAZI FEARS ARE GROSSLY EXAGGERATED. WE HAVE ALREADY OFFERED INTERNATIONAL VISITOR GRANTS FOR THIS (ALBEIT UNDECLARED) PURPOSE TO THE COMMISSIONER OF POLICE AND THE DEPUTY COMMISSIONER OF PRISONS; THE FORMER IS STILL WAITING FOR GOS CLEARANCE AND THE LATTER IS SCHEDULED TO LEAVE FOR THE U.S. IN OCTOBER. WE ALSO PROPOSE TO OFFER ONE OR MORE IV GRANTS TO NON-UNIFORMED OFFICIALS IN THE JUSTICE MINISTRY IN FY 1979.

(C) PROMOTE A GREATER VOICE IN NATIONAL AFFAIRS FOR SWAZILAND'S EDUCATED YOUTH. EDUCATED YOUTH CONSTITUTE ONE OF THE MOST DISAFFECTED GROUPS IN THE POPULATION. THE 1977 ANNUAL CONFERENCE OF THE SWAZILAND NATIONAL UNION OF STUDENTS (SNUS) WAS THE FIRST TO BE ALLOWED SINCE THE KING'S APRIL 1973 PROCLAMATION BANNING POLITICAL (AND MANY OTHER) MEETINGS. WE SHOULD HELP SNUS' IMAGE AS A RESPONSIBLE ORGANIZATION WITH A VIEW TO GETTING GREATER ESTABLISHMENT ACCEPTANCE OF ITS OPINIONS. (SUCH AN IMAGE WOULD ALSO FACILITATE SNUS' OBTAINING PERMITS FOR FUTURE MEETINGS; THE PERMIT APPLICATION FOR THE STILL-TO-BE HELD 1978 MEETING WAS REFERRED TO AND RECENTLY SIGNED BY THE PRIME MINISTER PERSONALLY.) WE HAVE ALREADY BEGUN TO WORK TOWARD THIS OBJECTIVE BY AWARDED SNUS A SELF-HELP GRANT TO BUILD WORKROOMS FOR HANDICAPPED ARTISANS AND BY SUCCESSFULLY PRESSING THE GOS TO PERMIT SNUS' PRESIDENT TO TRAVEL TO THE U.S. AT USICA EXPENSE AS A GUEST OF THE U.S. YOUTH COUNCIL. WE PROPOSE TO MAKE USICA RESOURCES AVAILABLE TO SNUS OFFICIALS, AS APPROPRIATE; TO USE OUR CONTACTS TO GET FAVORABLE MEDIA COVERAGE OF SELECTED SNUS ACTIVITIES; AND TO OFFER AN IV GRANT TO THE NEXT PRESIDENT OF SNUS.

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2. GOS REACTION TO USG ATTENTION TO THE HUMAN RIGHTS SITUATION IN SWAZILAND HAS BEEN THREEFOLD:

(A) IT IS NONE OF THE USG'S BUSINESS AND IS TANTAMOUNT TO INTERFERENCE IN INTERNAL AFFAIRS.

(B) THE USG DOES NOT UNDERSTAND THAT THE TRADITIONALIST SWAZI SOCIETY HAS ITS OWN SYSTEM OF RIGHTS AND RESPONSIBILITIES WHICH ARE NOT INHERENTLY LESS FAIR THAN THOSE IN MORE MODERN SOCIETIES.

(C) THE USG HAS A DOUBLE STANDARD, TAKING ITS MOST EFFECTIVE ACTION AGAINST SMALLER COUNTRIES LEAST ABLE TO DEFEND THEMSELVES AND NOT AGAINST SUPERPOWERS OR OPEC COUNTRIES WITH HUMAN RIGHTS RECORDS WORSE THAN SWAZILAND'S.

SINCE THE USG DOES NOT PUBLICIZE ITS SWAZILAND-SPECIFIC HUMAN RIGHTS STRATEGY, THERE IS NO WIDESPREAD PUBLIC VIEW OF IT, EITHER PRO OR CON. HOWEVER, INDIVIDUAL BUREAUCRATS WHO ARE AWARE OF THE USG POSITION ON GREATER EQUITY IN DEVELOPMENT ARE GENERALLY, BUT QUIETLY, SUPPORTIVE.

3. WE BELIEVE THAT, DESPITE SENIOR GOS OFFICIALS' INDICATIONS OF DISSATISFACTION WITH THE USG FOCUS ON HUMAN RIGHTS IN SWAZILAND, THE LONG-TERM NET EFFECT WILL PROBABLY BE FAVORABLE IN TERMS OF CHANGES IN CONDITIONS.

4. (A) NO USG HUMAN RIGHTS-RELATED ACTION IN SWAZILAND TO DATE HAS AFFECTED U.S. INTERESTS.

(B) NOT APPLICABLE.
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